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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/264,762	03/09/1999	RICHARD N. JURMAIN	BT10	3685

23403 7590 12/16/2002

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EXAMINER
SOTOMAYOR, JOHN

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 12/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Amendment

1. In response to the amendment filed September 10, 2002, claim 31 is cancelled and claims 1-30 and 32-42 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,4 are rejected under 35 U.S.C. 102(b) as being anticipated by Bonnett (US 4,138,722) for the reasons set forth in the prior Office action (see paper No. 6) and incorporated herein.

> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 22-24 and are rejected under 35 U.S.C. 102 (a) as being anticipated by Schneier et al (US 5,871,398) for the reasons set forth in the prior Office action (see paper No. 6) and incorporated herein.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Office Action Summary	Application No. 09/264,762	Applicant(s) JURMAIN, RICHARD N.
	Examiner John L Sotomayor	Art Unit 3714

-- Th MAILING DATE of this communication appears on the cover sheet with th correspond nc address --

Peri d f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 September 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30 and 32-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30 and 32-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 March 1999* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3,6,8-11 and 42 rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Schneier et al (US 5,871,398) for the reasons set forth in the prior Office action (see paper No. 6) and incorporated herein.

6. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Schneier et al (US 5,871,398), Bonnett discloses a handheld simulator device, but does not disclose that the handheld device has an integral slot that may be used for the insertion and detection of payment means. Schneier et al teaches a handheld device used as a gaming simulator that has an integral slot into which payment means, in the form of a smart card containing credits, may be inserted and sensed by the device for the purchase of a product to be consumed by the user (Figure 4 and Col 12, lines 32-35). The insertion of the payment means is in response to prompts from the handheld device when purchasing games (Col 14, lines 55-60). The smart card is a PCMCIA adapted device and is a common and well-understood means for transferring information into handheld devices, including payment means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an integral PCMCIA slot for the insertion and detection of payment means by the handheld device. Combining the system disclosed by Bonnett with the teaching of Schneier et al produces a handheld device adapted to ease the means by which payment is rendered to the device providing a more robust simulation for the user.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Brown (US 5,918,603) in further view of Best (US 4,445,187).

8. Regarding claim 12, Bonnett discloses a handheld simulator with a case and an electronic circuit housed within the case. Bonnett does not specifically disclose that a speaker is connected to the electronic circuit. Brown teaches a hand held simulator with a speaker attached to the electronic circuit to provide sounds to direct the user to perform actions (Col 4, lines 5-7). Best teaches that video games may emit voice dialog and interact with a user through spoken conversations (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a speaker to produce sounds and instructions consistent with the inhibition of smoking behavior. Combining the simulator disclosed by Bonnett with the teaching of Brown and the further teaching of Best presents an embodiment of a simulator used to treat medical conditions through spoken commands and instructions, including inhibiting smoking behavior.

9. Claims 13, 15-16 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Brown for the reasons set forth in the prior Office action (see paper No. 6) and incorporated herein.

10. Claims 14,17-18,25-26, 29,32-34, and 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Brown in further view of Schneier et al for the reasons set forth in the prior Office action (see paper No. 6) and incorporated herein.

11. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Hillsman (US 4,984,158) for the reasons set forth in the prior Office action (see paper No. 6) and incorporated herein.

12. Claims 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Brown in further view of Knight et al (US 5,676,551), Bonnett does not specifically

disclose that personality traits are available in software instructions for treating users of the handheld simulator. However, Brown teaches that a plurality of psychological strategies may be implemented in software for the treatment of users of the system (Col 5, lines 35-57). Knight et al teaches that computer based simulators may be used to imbue characters with emotional characteristics preferably through audio simulation (Col 3, lines 55-67 and Col 4, lines 5-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a simulation of a personality type, including a celebrity personality, as a psychological strategy to assist in the treatment of addictive behavior. Combining the system disclosed by Bonnett with the teachings of Brown and Knight et al produces a simulator with a greater empathetic interface toward the user and, therefore, a more effective means of correcting addictive behavior.

Response to Arguments

Applicant's arguments filed September 30, 2002 have been fully considered but they are not persuasive. The applicant's representative has presented three arguments for allowance on the claims. Specifically, as shown in the first embodiment, that the addiction device disclosed by Bonnett requires that a cigarette be inserted into the device in order to operate properly and that the user is, therefore, truly smoking not simulating the experience of smoking is without merit. The addiction device disclosed by Bonnett is specifically designed for the insertion of a jack plug to provide less and less smoke to a user over a span of time until the user is not receiving any smoke products at all (Col 3, lines 15-23). At this point, the user is not smoking but rather simulating smoking and is completely weaned from tobacco. This argument provided by

applicant's representative is not persuasive as the device disclosed by Bonnett is configured to successfully simulate smoking.

A second argument, as shown in the second, third and fourth embodiments of the arguments, concerns whether "game sounds" include spoken commands and instructions. The Examiner has included patent 4,445,187, "Video Games with Voice Dialog" to provide a teaching reference for the existence of aural sounds and speech generation in video games. This reference shows the general availability of this type of speech communication back in the early 1980s. Spoken communication in video games is commonplace for all types of games that wish to communicate instructions and strategies to the user in the most effective manner. Thus, the argument that the invention's ability to communicate instructions and strategies to a user through speech is patentably distinct is not persuasive.

A third argument, as shown in the third embodiment, concerns communications between video game devices for exchanging programmed information. It is a common and well-known practice to exchange information between like devices through an infrared communications port built into many electronic devices, especially PDAs and video game boxes. It would be obvious, therefore, for the device taught by Schneier to include among the plurality of communications ports an infrared communications port, and thus allow for inter-device exchange of programmed information. Thus, the argument that the ability to perform inter-device exchange of information through a communications port is patentably distinct is not persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4558.

Joe H. Cheng
Primary Examiner

jls
December 9, 2002